

**KHASHAN LAW FIRM, APC**

Lewis Khashan, Esq. (CA SBN: 275906)

Maria Zurmati, Esq. (CA SBN: 334340)

26636 Margarita Road, Suite 101

Murrieta, CA 92563

Telephone: (951) 461-2387

Facsimile: (909) 658-8981

Email: lewis@khashanlaw.com

Email: maria@khashanlaw.com

**Attorneys for Plaintiff Frank Lopez**

**UNITED STATES DISTRICT COURT**

**FOR THE CENTRAL DISTRICT OF CALIFORNIA- [DIVISION]**

HELEN LUCERO, Deceased; CECEILIA  
LOPEZ, Deceased, by and through their  
Successor-in-Interest and Estate FRANK  
LOPEZ

Plaintiffs,

vs.

OFFICER JOHN DOE 1; OFFICER JOHN  
DOE 2; CITY OF BALDWIN PARK POLICE  
DEPARTMENT, CITY OF BALDWIN PARK,  
and DOES 1- 25, Inclusive,

Defendant(s).

Case No.:

**PLAINTIFF’S COMPLAINT FOR  
DAMAGES AND VIOLATIONS OF  
CIVIL RIGHTS**

**DEMAND FOR JURY TRIAL**

**INTRODUCTION**

1. This action is filed by Frank Lopez (hereinafter “PLAINTIFF”), arising from events that occurred on or about January 10, 2022, when pursuant to PLAINTIFF’s 911 call Officer John Doe 1 (hereinafter “OFFICER 1”), and Officer John Doe 2 (hereinafter “OFFICER 2”), the

1 true names of whom are currently unknown to PLAINTIFF, responded to PLAINTIFF'S  
2 residence, located at 14730 Clark Street Baldwin Park, CA 91706.

3 2. PLAINTIFF called 911 regarding his wife, Helen Lucero's (hereinafter,  
4 "DECEDENT 1") as she was having a mental health breakdown causing her to exhibit irrational  
5 behavior and making serious and dangerous threats to burn down the house which posed a risk of  
6 harm to her person and the public in general.

7  
8 3. Upon their arrival, PLAINTIFF informed OFFICER 1 and OFFICER 2 that  
9 DECEDENT 1 had a lighter, and other objects in her possession that could start a fire and  
10 PLAINTIFF was concerned that DECEDENT 1 would use it to burn the house and cause harm to  
11 herself, others, or the public at large since a fire could cause damages to surrounding residences  
12 and individuals. Further, PLAINTIFF reported to OFFICER 1 and OFFICER 2 that DECEENT 1  
13 had already started putting some items on fire, and requested OFFICER 1 and OFFICER 2 to  
14 help her by taking her into custody for mental health treatment and/or evaluation. PLAINTIFF,  
15 DECEDENT 2, and PLAINTIFF's son pleaded with OFFICER 1 and OFFICER 2 to take some  
16 action and at least check on her to ensure that she was not going to harm herself, or others in any  
17 way.

18  
19 4. OFFICER 1 and OFFICER 2 advised PLAINTIFF that they could not take  
20 DECEDENT 1 into custody because holding a lighter was not a crime. OFFICER 1 and  
21 OFFICER 2 failed to take reasonable and simple steps to ensure the safety of DECEDENT 1 and  
22 that she was not in fact already lighting objects on fire. Furthermore, despite having knowledge  
23 of PLAINTIFF's concerns for DECEDENT 1's wellbeing and the safety of his entire family,  
24 OFFICER 1 and OFFICER 2, advised PLAINTIFF and PLAINTIFF's mother, Cecilia Lopez's  
25 (hereinafter "DECEDENT2") to leave DECEDENT1 alone, and left the residence without doing  
26  
27  
28

1 a welfare check on DECEDENT 1; without ensuring that a fire was not already in the making;  
2 and without taking any reasonable steps to ensure that no danger was posed by DECEDENT 1 to  
3 herself or others. OFFICER 1 and OFFICER 2 took no reasonable measures whatsoever to  
4 ensure the safety of anyone that day.  
5

6 5. As a direct result of OFFICER 1 and OFFICER 2's inaction, and failure to at least  
7 check on DECEDENT 1 to determine the viability of the alleged threats to burn the house, and to  
8 ensure that DECEDENT 1 was not posing a grave danger to herself and others since she was  
9 having a mental health breakdown, DECEDENT 1, did in fact use the lighter that she had in her  
10 possession and put the house on fire (hereinafter "SUBJECT INCIDENT") causing the avoidable  
11 death of DECEDENT 1 and DECEDENT 2, and directly causing the loss of a wife, mother, and  
12 grandmother, which could have all been avoided had OFFICER 1 and OFFICER 2 conducted a  
13 reasonable welfare check on DECEDENT 1 as they are sworn to do as Police Officers of the  
14 State of California, County of Los Angeles.  
15  
16

17 6. The SUBJECT INCIDENT caused PLAINTIFF to lose his wife and mother; his  
18 childhood home that was filled with wonderful memories; and to sustain 2<sup>nd</sup> degree burns with  
19 lifelong complications and mental anguish as a direct and proximate result of OFFICER 1 and  
20 OFFICER 2's inaction and failure to comply with their own department's policies and  
21 procedures.  
22

23 7. OFFICER 1 and OFFICER 2 violated PLAINTIFF's rights guaranteed under the  
24 Fourteenth Amendment to the United States Constitution as made actionable against Defendants  
25 pursuant to 42 U.S.C. §1983, under California Constitution Article §§1 and 7 and under the state  
26 tort law, by showing deliberate indifference towards PLAINTIFF's legitimate concerns for  
27 safety, deliberate indifference to assist DECEDENT1 to receive the necessary mental health  
28

1 treatments that she was entitled to; and deliberate indifference to DECEDENT 2's safety and  
 2 life. Furthermore, OFFICER 1 and OFFICER 2 violated the City of Baldwin Park Police  
 3 Department's (hereinafter "POLICE DEPARTMENT") Policies and Procedures requiring them  
 4 to at the minimum conduct a welfare check on DECEDENT 1 when called out to the residence  
 5 by a family member indicating that a threat to burn the residence down was likely in progress.  
 6 More importantly, City of Baldwin Park (hereinafter, "CITY") and POLICE DEPARTMENT  
 7 failed to properly to train, guide, and supervise its officers in general and OFFICER 1 and  
 8 OFFICER 2 in particular, causing the violation of PLAINTIFF's rights under the Fourteenth  
 9 Amendment to the United States Constitution as made actionable against Defendants pursuant to  
 10 42 U.S.C. §1983, under California Constitution Article §§1 and 7 and under the state tort law.  
 11

### 12 **JURISDICTION AND VENUE**

14 8. This Court has jurisdiction over PLAINTIFF'S federal claims under 28, U.S.C.  
 15 §§1331, 1343. Under 28 U.S.C. §1367, this Court has supplemental jurisdiction over  
 16 PLAINTIFF's sixth and seventh claims, which are based on state law.  
 17

18 9. Venue in the United States Central District Court for the Western Division is proper  
 19 pursuant to 28 U.S.C. §1391(b) because the events giving rise to PLAINTIFF's claim occurred  
 20 in this district, and DEFENDANTS engaged in their governmental duties in this District. The  
 21 SUBJECT LOCATION where PLAINTIFF lost his beloved wife and mother to the fire and was  
 22 fatally injured is or was located at 14730 Clark Street Baldwin Park, CA 91706.  
 23

24 10. PLAINTIFF commences this action timely and in accordance with the applicable  
 25 statutes of limitations and the amount of controversy herein, excluding interest and costs,  
 26 exceeds the minimum jurisdictional limit of this Court.  
 27

### 28 **PARTIES**

**Plaintiff**

11. PLAINTIFF is the surviving husband of DECEDENT 1, and the surviving son of DECEDENT 2. PLAINTIFF has a special interest in this matter that is concrete and therefore has standing to bring this claim as Civil Rights Violation under §1983 and for wrongful death survivorship action under the common law of the State of California. Plaintiff was a resident of the State of California, Los Angeles County at the time of the incident; however, since the SUBJECT INCIDENT, PLAINTIFF has been homeless. Under CCP §377.30, a cause of action that survives the death of the person entitled to commence an action or proceeding passes to the Decedent's Successor-in-Interest. Pursuant to CCP §377.34(b), effective January 1, 2022, in an action by a Decedent's Successor-in-Interest on the Decedent's cause of action, the damages recoverable may include damages for pre-death pain, suffering, and disfigurement since this action is being filed after January 1, 2022, and before January 1, 2026.

**Defendants:**

12. DEFENDANT OFFICER 1, whose name is unknown to PLAINTIFF, at all times herein relevant, was employed by, and working on behalf of the POLICE DEPARTMENT and resided within the State of California. He was a Baldwin Park City police Officer who actively participated in responding to PLAINTIFF's 911 call on the aforesaid date and acted under the color of law within the scope of his agency with the CITY. PLAINTIFF will hereafter seek leave of the Court to amend this Complaint to include OFFICER 1's true name and capacity after the same have been ascertained.

13. DEFENDANT OFFICER 2, whose name is unknown to PLAINTIFF, at all times herein relevant, was employed by, and working on behalf of the POLICE DEPARTMENT and resided within the State of California. He was a Baldwin Park City police Officer who actively

1 participated in responding to PLAINTIFF's 911 call on the aforesaid date and acted under the  
2 color of law within the scope of his agency with the CITY. PLAINTIFF will hereafter seek leave  
3 of the Court to amend this Complaint to include OFFICER 1's true name and capacity after the  
4 same have been ascertained.  
5

6 14. DEFENDANT CITY is, and at all times herein alleged was a city within Los Angeles  
7 County in the State of California with its town hall located at 14403 Pacific Ave., Baldwin Park,  
8 CA 91706.

9 15. DEFENDANT POLICE DEPARTMENT is, and at all times herein alleged was a  
10 municipal corporation or political subdivision organized and existing under the laws if the State  
11 of California. POLICE DEPARTMENT is, and at all times herein alleged was an agency of the  
12 CITY. A governmental claim was filed within the code and sufficient time has lapsed and/or the  
13 claim was rejected therefore allowing for the filing of this complaint.  
14

15 **Other Defendants**  
16

17 16. The true names and capacities, whether individual, plural, corporate, partnership,  
18 associate, or otherwise, of DOES 1-25, inclusive, are unknown to PLAINTIFF who therefore  
19 sued said DEFENDANTS by such fictitious names. The full extent of the facts linking such  
20 fictitiously sued DEFENDANTS is unknown to PLAINTIFF. PLAINTIFF is informed and  
21 believes, and thereupon alleges, that each of the DEFENDANTS designated herein as a DOE  
22 was, and is negligent, or in some other actionable manner, responsible for the events and  
23 happenings hereinafter referred to, and thereby negligently, or in some other actionable manner,  
24 legally and proximately caused the hereinafter described injuries and damages to PLAINTIFF.  
25 PLAINTIFF will hereafter seek leave of the Court to amend this Complaint to show the  
26 DEFENDANTS' true names and capacities after the same have been ascertained.  
27  
28

1 **Agency & Concert of Action**

2 17. At all times herein mentioned, DEFENDANTS, and each of them, hereinabove,  
3 were the agents, servants, employees, partners, aiders and abettors, and/or joint venturers of each  
4 of the other DEFENDANTS named herein and were at all times operating and acting within the  
5 scope and purpose of said agency, service, employment, partnership, enterprise, and/or joint  
6 venture, and each DEFENDANT has ratified and approved the acts of each of the remaining  
7 DEFENDANTS.  
8

9 **GENERAL ALLEGATIONS**

10 18. PLAINTIFF is informed and believes, and thereon alleges, that at all times herein  
11 mentioned, each DEFENDANT was an agent and/or employee and/or co-conspirator or each  
12 remaining DEFENDANT, and in engaging in acts and/or omissions hereinafter alleged, was  
13 acting within the scope of such agency, employment, and/or conspiracy, and with the permission  
14 and consent of other CO- DEFENDANT.  
15

16 19. The acts and omissions of all DEFENDANT were engaged in maliciously, callously,  
17 oppressively, wantonly, recklessly, and with deliberate indifference to the rights of PLAINTIFF.  
18

19 **STATEMENT OF FACTS**

20 20. PLAINTIFF realleges and incorporates the allegations set forth in the preceding  
21 paragraphs as though fully set forth herein.  
22

23 21. On or about January 10, 2022, DECEDENT 1 was having a mental breakdown, due  
24 to which she locked herself in a room with a lighter in her hand and was threatening PLAINTIFF  
25 and everyone in the house that she was going to burn the house down while she was in the house.  
26  
27  
28

1           22. DECEDENT 1 had started burning some small items which was of an enough concern  
2 to PLAINTIFF, DECEDENT 2 and PLAINTIFF and DECEDENT 1's son (hereinafter "SON") to  
3 call 911 dispatcher to report their concern and to seek assistance from CITY and POLICE  
4 DEPARTMENT because they are supposedly trained to handle such mental health crisis and have  
5 taken an oath to uphold the United States Constitution, to support the laws of their states, their  
6 agencies, and to ensure the safety of the people in the communities they serve.

7  
8           23. On several occasions, prior to the SUBJECT INCIDENT, PLAINTIFF had to call 911  
9 to report mental health breakdowns by DECEDENT 1 where assistance was required as a result of  
10 her actions.

11  
12           24. On prior occasions, upon responding to PLAINTIFF's residence pursuant to the  
13 forementioned calls, the responding officers took proper measures to ensure safety of  
14 DECEDENT 1, and everyone else in the house, by taking DECEDENT 1 to a mental health  
15 facility to assist her in receiving proper mental health treatments and to prevent her from causing  
16 any harm to herself and/or others.

17  
18           25. Baldwin Park Police Department had prior knowledge of DECEDENT 1's condition  
19 and her propensities to cause harm since they had dealt with her on multiple occasions in the past  
20 prior to the SUBJECT INCIDENT.

21  
22           26. Approximately, forty-five (45) minutes later, after the aforesaid 911 call on January  
23 10, 2022, OFFICER 1 and OFFICER 2 responded to PLAINTIFF's residence to inquire about  
24 PLAINTIFF's concern.

25           27. PLAINTIFF explained to OFFICER 1 and OFFICER 2 that he was concerned about  
26 DECEDENT 1's condition and the threats she was making because she had a lighter in her  
27



1 possession and had locked herself up in a room and refused to come out so that they could speak  
2 with her and calm her down.

3 28. PLAINTIFF informed OFFICER 1 and OFFICER 2 that DECEDENT 1 was already  
4 putting some small items on fire and he had a genuine concern about her burning the house or  
5 herself. Further, PLAINTIFF told OFFICER 1 and OFFICER 2 about DECEDENT 1's refusal  
6 to come out of the room and threatening to harm herself.  
7

8 29. OFFICER 1 and OFFICER 2 advised PLAINTIFF that they could not do anything  
9 about her having a lighter in her possession because it was not a crime. However, OFFICER 1  
10 and OFFICER 2 completely ignored the issue of DECEDENT 1 already burning small items,  
11 locking herself in a room, and threatening to harm herself which could lead to DECEDENT 1  
12 causing significant harm to herself and/or others which was the exact result of what happened  
13 here.  
14

15 30. After spending approximately forty-five (45) minutes with PLAINTIFF on the front  
16 porch of his residence, OFFICER 1 and OFFICER 2 advised PLAINTIFF to go into the house,  
17 and to leave DECEDENT 1 alone and let her calm down on her own, and they left the premises  
18 without taking any reasonable measures whatsoever to ensure that DECEDENT 1 was not  
19 starting a fire; causing harm to herself; and was not a danger to herself or others, regardless of  
20 the threats already being made by her.  
21  
22

23 31. OFFICER 1 and OFFICER 2 did not check on DECEDENT 1 to ensure she was safe;  
24 they failed to summon the mental health crisis unit to respond to the residence and examine  
25 DECEDENT 1's mental state to rule out the possibility of worsening of her condition and thereby  
26 causing any kind of harm to herself and/or others.  
27  
28

1 32. Pursuant to POLICE DEPARTMENT's Policies and Procedures, OFFICER 1 and  
2 OFFICER 2, as responding officers to a mental health crisis call, were required to promptly assess  
3 the situation independent of any information shared with them by PLAINTIFF to determine  
4 whether a mental health crisis was a factor; to take DECEDENT 1's mental health history and  
5 prior 911 calls into account that whatever DECEDENT 1 was doing, she was unable to appreciate  
6 the consequences of her actions; to take steps to preserve everyone's safety; evaluate available  
7 information such as the information received from PLAINTIFF and information already in  
8 POLICE DEPARTMENT's possession due to prior 911 calls for similar mental health breakdowns  
9 by DECEDENT 1; and take DECEDENT 1 into a 72-hour custody to receive proper mental health  
10 treatment.  
11

12  
13 33. OFFICER 1 and OFFICER 2 violated the POLICE DEPARTMENT'S Policy and  
14 Procedures by completely ignoring the reasonably available information about DECEDENT 1's  
15 history of mental health breakdowns in addition to the threats she was making on this particular  
16 occasion and the fact that her having a lighter in her possession, setting small items on fire,  
17 combined with her mental health breakdown, should have been reasonably foreseeable to the  
18 responding officers that DECEDENT 1 was a threat to herself and others. Any reasonably  
19 prudent person in OFFICER 1's and OFFICER 2's shoes would not have ignored the information  
20 provided to them upon arrival, nor failed to at the minimum conduct a welfare check on  
21 DECEDENT 1 to see if any of the claims made by PLAINTIFF were in fact real. They had  
22 ample time to conduct the welfare check and failed to do so.  
23  
24

25 34. After OFFICER 1 and OFFICER 2 left the premises, PLAINTIFF went to get ready  
26 for bed and left DECEDENT 1 alone as he was instructed to by OFFICER 1 and OFFICER 2.  
27  
28

1 When he was in his room getting ready for bed, he heard his SON shouting, telling his mother,  
2 DECEDENT 1 to stop it. PLAINTIFF came out of his room to check and saw the fire.

3 35. DECEDENT 1 was in the room where she had locked herself up. PLAINTIFF, his  
4 SON, and DECEDENT 2, ran out of the house and called the fire department to report the fire.  
5 PLAINTIFF was told that due to the number of calls they had received, the nearest fire  
6 department had to summon the neighboring city's and/or community's fire department to come  
7 to PLAINTIFF's aid. PLAINTIFF was also informed that it would take some time until the help  
8 arrives.  
9

10 36. While waiting for the firefighters to arrive, DECEDENT 2 went back into the house  
11 to get some of her valuable items, and PLAINTIFF also ran back into the house to help  
12 DECEDENT 1 and to take her out of the house. However, his attempt to save his wife's life was  
13 not successful because she had died in the fire. In his attempt to save his wife's life, PLAINTIFF  
14 sustained 2<sup>nd</sup> degree burns to his person causing him severe pain, suffering, and injury of which  
15 he continues to suffer from today. PLAINTIFF's mother, DECEDENT 2 also did not make it  
16 alive from the house and was burned to death.  
17

18 37. PLAINTIFF was taken out of the house engulfed in raging flames and rushed to the  
19 hospital with severe burns. PLAINTIFF was placed in an induced comma to get proper  
20 treatment for his burns for approximately eighteen (18) days. When PLAINTIFF woke up from  
21 the comma, he received the devastating news about his beloved wife's and mother's passing as a  
22 result of the SUBJECT INCIDENT.  
23

24 38. PLAINTIFF is informed and believes that POLICE DEPARTMENT failed to properly  
25 train its Officers, including OFFICER 1 and OFFICER 2 in dealing and/or responding to 911 calls  
26 pertaining to mental health crisis even though the POLICE DEPARTMENT's policy and  
27  
28

1 procedure manual clearly indicates what responding officers are required to do when responding  
2 to claims of mental health issues.

3 39. PLAINTIFF is informed and believes that the POLICE DEPARTMENT does have  
4 several guidelines in place requiring the 911 call dispatchers and the responding Officers to seek  
5 assistance of the mental health crisis team and/or other mental health professionals when  
6 responding to 911 calls related to mentally ill individuals to protect the law enforcement Officers,  
7 the mentally ill individuals, and the public at large.

8  
9 40. The POLICE DEPARTMENT failed to properly retain, train, and supervise officers to  
10 handle mental health related 911 calls, as occurred here, which resulted in the unfortunate and  
11 avoidable death of DECEDENT 1 and DECEDENT 2. The POLICE DEPARTMENT failed to  
12 ensure that its officers followed the policy and procedures manual, mental health training, crisis  
13 training, and/or other educational materials provided to the officers, related to dealing with  
14 individuals suffering from a mental illness and as such, caused the avoidable death of  
15 DECEDENT 1 and DECEDENT 2.

### 16 DAMAGES

17  
18 41. As a direct result of DEFENDANTS', including OFFICER 1's, OFFICER 2's and  
19 DOES's 1-25 acts/omissions as herein before described, PLAINTIFF suffered the loss of his  
20 wife and mother; 2<sup>nd</sup> degree burns for which he was placed on an artificially induced comma so  
21 that he could receive the proper medical, treatment and he may continue to require medical care  
22 in the future; loss of his childhood home along with all of his childhood memories that cannot  
23 never be replaced; and the aforesaid acts and/or omission caused PLAINTIFF to become  
24 homeless and exposing him to risks of harm associated with living on the street or under a  
25 freeway underpass; PLAINTIFF also incurred medical costs, and may incur future medical costs  
26  
27  
28

1 for the treatments; PLAINTIFF has experienced pain and suffering both in the past and will  
2 likely suffer in the future; PLAINTIFF suffered emotional distress, embarrassment,  
3 disfigurement, embarrassment, mental and physical pain, pain and suffering, humiliation, and  
4 other damages of which he will continue to suffer in the future.  
5

6 42. PLAINTIFF claims damages for DECEDENT 1 and DECEDENT 2's 's pre-death  
7 pain and suffering because DECEDENTS experienced severe pain, suffering, and discomfort in  
8 the hours after they sustained burns and before they passed away as a direct and proximate cause  
9 of the SUBJECT INCIDENT. Further, PLAINTIFF sustained damages resulting from the loss of  
10 aid, affection, comfort, society, and companionship, as well as other benefits and assistance from  
11 DECEDENT 1 and DECEDENT 2 as a result of DEFENDANTS' deliberate indifference to life,  
12 safety, and medical needs.  
13

14 43. As a direct result of DEFENDANTS' conduct herein before described, PLAINTIFF  
15 suffered violation of his rights under the Fourteenth Amendment to the United States  
16 Constitution as made actionable against Defendants pursuant to 42 U.S.C. §1983, under  
17 California Constitution Article §§1 and 7 and under the state tort law, by DEFENDANTS'  
18 deliberate indifference towards PLAINTIFF's legitimate concerns for safety, deliberate  
19 indifference to assist DECEDENT 1 to receive the necessary mental health treatments that she  
20 was entitled to; and deliberate indifference to DECEDENT 2's safety and life.  
21  
22

23 44. Therefore, PLAINTIFF is entitled to an award of all attorney's costs, fees and  
24 litigation costs incurred in pursuing this action for violation of his Civil Rights and CA state law  
25 tort of negligence, wrongful death, and intentional infliction of emotional distress.  
26

27 **CLAIMS FOR RELIEF**

28 **First Claim For Relief**

**PLAINTIFF'S COMPLAINT FOR DAMAGES AND  
VIOLATIONS OF CIVIL RIGHTS**

**Violation of Civil Rights- 42 U.S.C. §1983- Fourteenth Amendment  
Deliberate Indifference to Serious Medical Need  
Against all DEFENDANTS**

45. PLAINTIFF realleges and incorporates the allegations set forth in the preceding paragraphs as though fully set forth herein.

46. On or about January 10, 2022, OFFICER 1 and OFFICER 2 responded to PLAINTIFF's residence pursuant to a 911 call related to a mental health breakdown by DECEDENT 1.

47. After OFFICER 1 and OFFICER 2 arrived at the aforesaid residence, PLAINTIFF informed them about DECEDENT 1's condition, her threats to burn the house down, harm herself, and her having a lighter in her possession which she had already used to put items on fire.

48. OFFICER 1, OFFICER 2, and DOES 1-25 were aware of DECEDENT 1's mental health condition and understood the necessity and urgency of the mental health treatment or evaluation for DECEDENT 1; however, the OFFICER 1, OFFICER 2, and DOES 1-25 ignored PLAINTIFF's request to assist DECEDENT 1 in getting the help that she needed and thereby they ignored the likelihood of DECEDENT 1 causing harm to herself and others in the house. DECEDENT 1 had a constitutional right under the Fourteenth Amendment to receive prompt medical and/or mental health care. OFFICER 1, OFFICER 2 and DOES 1-25 violated DECEDENT 1's constitutional right to mental health care when they acted with deliberate indifference to DECEDENT's serious mental health needs.

49. At all times, OFFICER 1, OFFICER 2, and DOES 1-25 were acting under the color of law and were acting in the course and scope of their employment with CITY and POLICE DEPARTMENT.

1 50. At all times, OFFICER 1, OFFICER 2, and DOES 1-25, knew or should have known  
2 that DECEDENT 1 was having a mental health breakdown which was a factor for her to not  
3 appreciate and/or understand the consequences of her conduct.  
4

5 51. OFFICER 1, OFFICER 2, and DOES 1-25, failed to properly evaluate or investigate  
6 PLAINTIFF'S claim about DECEDENT 1's mental health breakdown and his concern about his  
7 own and his family's safety; they failed to take DECEDENT 1's mental health history and  
8 history of the POLICE DEPARTMENT responding to previous 911 calls related to DECEDENT  
9 1 into consideration; and failed to assist and/or offer DECEDENT 1 to receive proper mental  
10 health treatment for her serious mental health needs.  
11

12 52. As a direct and proximate result of OFFICER 1's, OFFICER 2's and DOES's 1-25  
13 acts and omissions that were deliberately indifferent DECEDENT 1's serious medical and/or  
14 mental health needs, DECEDENT 1 lost her life to the fire in the residence.  
15

16 53. OFFICER 1, OFFICER 2 and DOES 1-25 acted with deliberate or reckless disregard  
17 to DECEDENT 1's constitutionally protected rights, justifying an award of punitive or  
18 exemplary damages against OFFICER 1, OFFICER 2 and DOES 1-25 in an amount subject to  
19 proof at the time of trial in order to deter OFFICER 1, OFFICER 2 and DOES 1-25 from  
20 engaging in similar conduct in the future and to make an example by way of monetary  
21 punishment. Further PLAINTIFF as a Successor-in-interest to DECEDENT 1 is also entitled to  
22 attorneys fees and costs associated with this complaint.  
23

24 **Second Claim For Relief**  
25 **Violation of Civil Rights- 42 U.S.C. §1983- Fourteenth Amendment**  
26 **Right to Familial Relationship**  
27 **Against all DEFENDANTS**  
28

1 54. PLAINTIFF realleges and incorporates the allegations set forth in the preceding  
2 paragraphs as though fully set forth herein.

3 55. OFFICER 1, OFFICER 2 and DOES 1-25, knew that PLAINTIFF had legitimate  
4 concerns about his own and his family's safety because DECEDENT 1 was suffering a mental  
5 health breakdown which made it somewhat impossible for him to help his suicidal wife in  
6 persuading her to come out of the room in which she had locked herself up and/or to give him  
7 the lighter she had in her possession.  
8

9 56. OFFICER 1, OFFICER 2 and DOES 1-25, knew that when responding to a 911 call  
10 pertaining to a mental health crisis or breakdown, they were required to evaluate and investigate  
11 the situation, evaluate available information pertaining to the individual's mental health history  
12 and prior mental health breakdowns, evaluate safety conditions and ensure the participants'  
13 safety; however, they failed to fulfill any of the above stated requirements. Nonetheless, they  
14 instructed PLAINTIFF to just leave DECEDENT 1 alone and return to their home.  
15  
16

17 57. OFFICER 1, OFFICER 2 and DOES 1-25's, failures to fulfill the requirements of the  
18 POLICE DEPARTMENT'S Policy and Procedure and their failure to at least check on  
19 DECEDENT 1 to ensure she was not a danger to herself, and others amounts to a deliberate  
20 indifference to PLAINTIFF's constitutional right to familial relationship.  
21

22 58. As a direct and proximate result of OFFICER 1's, OFFICER 2's and DOES's 1-25  
23 acts and omissions that were deliberately indifferent to PLAINTIFF's right to familial  
24 relationship, PLAINTIFF lost his wife and mother.

25 59. OFFICER 1, OFFICER 2 and DOES 1-25 acted with deliberate or reckless disregard  
26 to PLAINTIFF'S constitutionally protected rights, justifying an award of punitive or exemplary  
27 damages against OFFICER 1, OFFICER 2 and DOES 1-25 in an amount subject to proof at the  
28



1 time of trial in order to deter OFFICER 1, OFFICER 2 and DOES 1-25 from engaging in similar  
2 conduct in the future and to make an example by way of monetary punishment. Further  
3 PLAINTIFF as a Successor-in-interest to DECEDENT 1 is also entitled to attorney's fees and  
4 costs related to the filing and litigation of this complaint.  
5

6 **Third Claim For Relief**  
7 **Violation of Civil Rights- 42 U.S.C. § 1983; Art. 1, §§1 and 7, California**  
8 **Constitution**  
9 **Right to Safety and Life**  
10 **Against all DEFENDANTS**

11 60. PLAINTIFF realleges and incorporates the allegations set forth in the preceding  
12 paragraphs as though fully set forth herein.

13 61. DEFENDANTS OFFICER 1, OFFICER 2, POLICE DEPARTMENT, CITY, and  
14 DOES 1-25 violated DECEDENT 1's and DECEDENT 2's rights to life and safety protected  
15 under California Constitution Article 1 §1 and §7 by failing to take proper measure to ensure the  
16 DECEDENT 1 and DECEDENT 2's safety and that they were free from a potential life-  
17 threatening harm which could result due to DECEDENT 1's mental breakdown.

18 62. OFFICER 1, OFFICER 2, POLICE DEPARTMENT, CITY, and DOES 1-25  
19 wrongful acts and/or omission were intentional in failing to protect and preserve DECEDENTS'  
20 lives, PLAINTIFF's safety and securing property, and that at minimum, DEFENDANTS, and  
21 each of them were deliberately indifferent to the likely consequences of DECEDENT 1's mental  
22 health crisis.  
23

24 63. As a direct and proximate consequence of DEFENDANTS' unlawful conduct,  
25 DECEDENT 1 and DECEDENT 2 lost their lives; PLAINTIFF lost his beloved wife and  
26 mother; lost his childhood home; sustained 2<sup>nd</sup> degree burns with lifelong consequences and  
27 became homeless.  
28

64. DEFENDANTS' failure to act and/or conduct alleged herein amounts to oppression, fraud or malice within the meaning of Civil Code §3294 and was performed knowingly, intentionally and maliciously, amounting to despicable conduct by reason of which PLAINTIFF is entitled to an award of exemplary damages against these DEFENDANTS in an amount subject to proof at the time of trial in order to deter these DEFENDANTS from engaging in similar conducts and to make an example by the way of monetary punishment. PLAINTIFF is entitled to attorney's fees and costs of suit herein pursuant to statute.

**Fourth Claim For Relief**  
**Failure to Properly Train and Supervise & Monell Liability for Unconstitutional**  
**Policy, Practice & Custom- 42 U.S.C. § 1983**  
**Against POLICE DEPARTMENT, CITY, AND DOES 1-25.**

65. PLAINTIFF realleges and incorporates the allegations set forth in the preceding paragraphs as though fully set forth herein

66. PLAINTIFF is informed and believes, and thereon alleges, that CITY's officers in general and OFFICER 1 and OFFICER 2 in particular, when responding a call pertaining to mental health crises, are required to promptly assess the situation independent of the information shared with them regarding that situation; to assess whether a mental health crisis is a factor; to take into account the mentally ill individual's mental and emotional state and potential inability to appreciate the consequences of her action; employ strategies to preserve the safety of all participants and to evaluate any available information that could assist them in determining the cause of motivation for the mentally ill individual's actions or intentions, all of which is located within the POLICE DEPARTMENT's Policy and Procedures manual.

67. After OFFICER 1, OFFICER 2 and DOES 1-25 arrived at PLAINTIFF's residence on January 10, 2022, PLAINTIFF clearly informed OFFICER 1, OFFICER 2 and DOES 1-25 that DECEDENT 1 was suffering from a mental disorder which was the factor for her to

1 experience a mental health breakdown, rendering her incapable to appreciate the consequences  
2 of her actions. This information was sufficient for OFFICER 1, OFFICER 2 and DOES 1-25 to  
3 act in accordance with the aforesaid requirements of the POLICE DEPARTMENT. The  
4 information that PLAINTIFF shared with OFFICER 1, OFFICER 2 and DOES 1-25 does not  
5 warrant any kind of reluctance or indifference and was clear enough to make OFFICER 1,  
6 OFFICER 2 and DOES 1-25 to at least initiate contact with DECEDENT 1 or to evaluate the  
7 situation. However, OFFICER 1, OFFICER 2 and DOES 1-25 failed to follow the required  
8 procedures of the POLICE DEPARTMENT to preserve DECEDENT 1's, PLAINTIFF's,  
9 SON's, and DECEDENT 2's safety.

12 68. POLICE DEPARTMENT's lack of a proper hiring, training, and retention, of police  
13 officers who respond to mental health crisis or breakdown was a direct and proximate cause of  
14 PLAINTIFF's injuries and the loss of life of DECEDENT 1 and DECEDENT 2. OFFICER 1  
15 and OFFICER 2 could have made contact with the Mobile Crisis Response Unit or other  
16 professionals, better trained to deal with individuals who are experiencing mental health crisis,  
17 and their failure to do so is a departure from the standards and practices of the Baldwin Park  
18 Police Department, Police Departments in California in general, and more importantly in Los  
19 Angeles County in particular, which clearly amounts to deliberate indifference to  
20 DECENDENTS' well-being and safety.

23 69. CITY's and POLICE DEPARTMENT's failure to maintain adequate and proper  
24 training for its law enforcement officers in the department necessary to educate them as to the  
25 constitutional rights of citizens in general and mentally challenged individuals in particular; to  
26 ensure their safety and well-being amounts to deliberate indifference.

1 70. CITY and POLICE DEPARTMENT were aware, or should have been aware, of the  
2 propensities of its officers in general and OFFICER 1 and OFFICER 2 in particular to abuse their  
3 discretion when dealing with individuals who are experiencing mental health breakdowns and  
4 showing reluctance toward their safety and wellbeing; however, CITY and POLICE  
5 DEPARTMENT failed to adequately train and supervise its officers from violating the afore-  
6 mentioned individuals' rights.

8 71. OFFICER 1's, OFFICER 2's, and DOES' 1-25 deliberate indifference to  
9 PLAINTIFF's constitutional rights shows that CITY, POLICE DEPARTMENT and DOES 1-25  
10 failed to provide adequate training and supervision to police officers that hold the power,  
11 authority, insignia, equipment and resources available to them to protect citizens in situation  
12 such as the one in question. This failure amounts to deliberate indifference to citizen's  
13 constitutional rights.

15 72. Therefore, CITY's OFFICER 1, OFFICER 2 and DOES 1-25, acted with deliberate  
16 indifference to the rights of PLAINTIFF, DECEDENT 1 and DECEDENT 2; disregarded a duty  
17 to protect DECEDENT 1, PLAINTIFF, DECEDENT 2, and SON from the fatalities caused by  
18 DECEDENT1.

20 73. POLICE DEPARTMENT's inadequate policy and procedures and failure to equip its  
21 officers, including OFFICER 1 and OFFICER 2 with proper training related to responding to  
22 mental health crisis calls, was the direct and proximate cause of the death of PLAINTIFF's wife  
23 and mother, resulted in loss of PLAINTIFF's childhood home, and caused physical injuries to  
24 PLAINTIFF.

26 74. CITY's and POLICE DEPARTMENT's failure to adequately train its officers  
27 amounts to deliberate indifference to PLAINTIFF's constitutional right to safety and well-being  
28

1 which could have been prevented had POLICE DEPARTMENT ensured that all officers,  
2 especially OFFICER 1 and OFFICER 2 followed the department's policy.

3  
4 **Fifth Claim For Relief**  
5 **Violation of DECEDENT1's Rights Protected under ADA**  
6 **Against CITY, DOES 1-25.**

7 75. PALINTIFF realleges and incorporates the allegations set forth in the preceding  
8 paragraphs as though fully set forth herein

9 76. Under Title II of the Americans With Disabilities Act, ("ADA") 42 U.S.C. §12132, et  
10 seq., and section 504 of the Rehabilitation Act, 29 U.S.C. § 701, et seq., DECEDENT 1 was a  
11 qualified individual with a disability.

12 77. CITY and DOES 1-25, through its employees and agents knew that DECEDENT 1  
13 was disabled who required mental health assistance to prevent her from causing harm to herself  
14 and/or others around her.

15 78. At all times, CITY, POLICE DEPARTMENT, OFFICER 1, OFFICER 2, and DOES  
16 1-25 knew or should have known the DECEDENT 1 suffered from a mental health illness  
17 causing her to have mental health breakdowns and posing risk of harm or death to herself and/or  
18 others around her since PLAINTIFF had reported mental health breakdowns by DECEDENT 1  
19 on multiple occasion prior to the SUBJECT INCIDENT.

20 79. CITY and its officers failed to reasonably accommodate DECEDENT 1's disability:  
21 by failing to check on her to assess her condition and/or the situation; by failing to summon  
22 mental health crisis unit or other experienced professionals to evaluate DECEDENT 1 and  
23 ensure her and other individuals' safety; by failing to reasonably accommodate DECEDENT 1's  
24 needs for mental health evaluation and treatment causing her condition to deteriorate which  
25  
26  
27  
28

1 resulted in her own and her mother-in-law's death, destruction of their home, and physical  
2 injuries to PLAINTIFF.

3 80. Pursuant to 42 U.S.C. § 12132, "Subject to the provisions of this title, no qualified  
4 individual with a disability shall, by reason of such disability, be excluded from participation in  
5 or be denied the benefits of the services, programs, or activities of a public entity, or be subject  
6 to discrimination by any such entity."

7  
8 81. Title II of the Americans with Disability Act creates an affirmative duty in some  
9 circumstances to provide special, preferred treatment, or "reasonable accommodation."

10 82. Further, facially neutral policies may violate the ADA when such policies unduly  
11 burden disabled person, even when such policies are consistently enforced.

12 83. Discrimination under ADA includes a defendant's failure to make reasonable  
13 accommodations to the needs of a disabled person based on her mental or physical health. These  
14 accommodations include specialized training on handling mental health crisis 911 calls by the  
15 dispatcher and response to those calls by officers.

16  
17 84. "A plaintiff need not allege either disparate treatment or disparate impact in order to  
18 state a reasonable accommodation claim." *McGary v. City of Portland*, 386 F.3d 1259, 1266 (9<sup>th</sup>  
19 Cir. 2004). "In the context of disability, therefore equal treatment may not beget equality, and  
20 facially neutral policies, and facially neutral policies may be, in fact, discriminatory if their effect  
21 is to keep persons with disability from enjoying the benefits of services that by law, must be  
22 available to them." *Presta v. Peninsula Corridor Joint Powers Bd.*, 16 F. Supp. 2d 1134, 1136  
23 (N.D. Cal. 1998) (internal citation omitted).

24 85. In order to stay safe and alive, DECEDENT 1 required mental health  
25 accommodations, such as mental health crisis unit to be summoned to their residence to provide  
26  
27  
28

1 the necessary mental health evaluation. However, CITY, its officers and DOES 1-25, failed to  
2 provide reasonable and required accommodations to DECEDENT 1 to prevent her from  
3 causing the SUBJECT INCIDENT.

4  
5 86. CITY and its officers denied DECEDENT 1 the benefits and services of government  
6 programs, services, or activities. As public entities that receive federal financial assistance, CITY  
7 is vicariously liable for its officers' violation of Title II of the American With Disability Act and  
8 Section 504 of the Rehabilitation Act.

9  
10 87. When PLAINTIFF informed OFFICER 1 and OFFICER 2 that his wife, DECEDENT  
11 1 was experiencing a mental health crisis and was in need of assistance, instead of calling mental  
12 health crisis unit or taking DECEDENT 1 into custody for mental health evaluation as any well  
13 trained, officer would have done, OFFICER 1 and OFFICER 2 completely ignored  
14 PLAINTIFF's request and instead advised PLAINTIFF to leave DECEDENT alone.

15  
16 88. By ignoring PLAINTIFF's request for assistance; DECEDENT 1's need for mental  
17 health treatment and by advising PLAINTIFF to leave DECEDENT 1 alone, OFFICER 1,  
18 OFFICER 2 and DOES 1-25 denied DECEDENT 1 the needed mental health services when  
19 PLAINTIFF specifically informed officers about DECEDENT 1's disability. Further, there was  
20 no effort to "level the playing field" by check on DECEDENT 1 and providing her medical or  
21 mental health evaluation based on her disability.

22  
23 89. This demonstrates that CITY and its officers were discriminating against DECEDENT  
24 1 because of her disability. Further, CITY and its officers violated DECEDENT 1's clearly  
25 established right under the ADA with deliberate indifference.

26  
27 90. The violation of DECEDENT 1's rights resulted from CITY's police department's  
28 policies and procedures adopted or maintained with deliberate indifference.

1 91. As a result of the foregoing conduct, DECEDENT 1's rights under Title II of the  
2 American with Disabilities Act and Section 504 of Rehabilitation Act were violated and she was  
3 discriminated against because of her disability.

4 92. As a direct and proximate cause of the CITY's and its officers' conduct as herein  
5 described DECEDENT 1 lost her life.

6 93. As a direct and proximate cause of the CITY's and its officers' conduct, DECEDENT  
7 1 suffered physical and mental pain and suffering before her death.

8  
9  
10 **Sixth Claim For Relief**  
11 **Wrongful Death and Survival Action Under State Tort Law**  
12 **Against all DEFENDANTS**

13 94. PALINTIFF realleges and incorporates the allegations set forth in the preceding  
14 paragraphs as though fully set forth herein

15 95. DEFENDANTS, and DOES 1-25, and each of them, owed a duty of care to  
16 DECEDENT 1, DECEDENT 2, PLAINTIFF and SON, whom they interacted with pursuant to a  
17 911 call, to act with ordinary care and prudence to ensure their safety and wellbeing. In  
18 particular, DEFENDANTS owed a duty of reasonable care to check on DECEDENT 1 to make  
19 sure she did not pose a threat of harm to herself and/or others to avoid a fatality that could easily  
20 occur considering DECEDENT 1's mental condition.

21 96. Further, PLAINTIFF alleges that DEFENDANTS had a duty pursuant to POLICE  
22 DEPARTMENT's policy and procedures when responding to a mental health related 911 call, to  
23 promptly assess the situation independent of reported information by initiating contact with the  
24 mentally ill individual and/or otherwise assessing the crises; preserve safety of all participants;  
25 evaluate available information to determine the cause for such a mental breakdown; evaluate  
26 safety conditions, inquire about prior incidents involving same or similar threats or incidents; and  
27  
28



1 whether police officers have responded to those incidents; and to take an individual who is  
2 showing a mental breakdown and that person is a danger to herself or others into a custody and  
3 place her in an approved mental health facility for 72-hour treatment and evaluation if there is  
4 reasonably available information about the historical course of that particular individual's mental  
5 disorder, which may include evidence shared to the officers by a professional who has provided  
6 mental health treatment to that individual, and/ or a family member.

8 97. At all times mentioned herein, OFFICER 1, OFFICER 2 and DOES 1-25 were acting  
9 in the course and within the scope of their employment with CITY. DEFENDANTS, and each of  
10 them breached their duty of care to DECEDENT 1, DECEDENT 2, PLAINTIFF and SON by:

- 12 (a) failing to promptly assess the situation independent of reported information by  
13 PLAINTIFF;
- 14 (b) failing to check on DECEDENT 1 and/or initiating contact with her individual and/or  
15 otherwise assessing the crises;
- 16 (c) failing to preserve safety of DECEDNT 1, DECEDENT 2, PLAINTIFF and SON;
- 17 (d) failing to evaluate available information to determine the cause for such a mental  
18 breakdown;
- 19 (e) failing to evaluate safety conditions;
- 20 (f) failing to inquire about prior incidents involving DECEDENT 1; and
- 21 (g) failing to take DECEDENT 1 who was a danger to herself and her family members,  
22 including PLAINTIFF into custody and to place her in an approved mental health  
23 facility for 72-hour treatment and evaluation despite having information about the  
24 historical course of DECEDENT 1's mental disorder shared by her husband,  
25 PLAINTIFF.

1 98. By engaging in the foregoing acts and/or omissions, DEFENDANTS, and each of  
2 them, breached their duty of care owed to DECEDENT 1, DECEDENT 2, PLAINTIFF son.  
3 Further, CITY is responsible for the acts of its individual agents and employees under the theory  
4 of *respondeat superior*.  
5

6 99. As a direct and proximate result of DEFENDANT's negligent conduct alleged herein,  
7 PLAINTIFF lost his wife, his mother, lost his childhood home, suffered 2<sup>nd</sup> degree burns with  
8 lifelong complications, and severe emotional distress. Further, PLAINTIFF sustained damages  
9 resulting from the loss of aid, affection, comfort, society, and companionship, as well as other  
10 benefits and assistance from DECEDENTS 1 and 2 as a result of DEFENDANTS' negligence.  
11

12 100. Further, the conduct and/or omission of OFFICER 1 and OFFICER 2 amounts to  
13 oppression, fraud, or malice within the meaning of Civil Code Section 3294 et seq., and punitive  
14 damages should be assessed against each DEFENDANT for the purposes of punishment and for  
15 the sake of example.  
16

17 **Seventh Claim For Relief**  
18 **Intentional Infliction of Emotional Distress Under State Tort Law**  
19 **Against all DEFENDANTS**

20 101. PALINTIFF realleges and incorporates the allegations set forth in the preceding  
21 paragraphs as though fully set forth herein

22 102. As set forth above, the actions and/or omissions of DEFENDANTS, and of  
23 OFFICER 1 and OFFICER 2 in particular were extreme and outrageous and demonstrated  
24 DEFENDANTS', including OFFICER 1's and OFFICER 2' s complete disregard for  
25 PLAINTIFF's, DECEDENT 1's, DECEDENT 2's and SON's health, safety, and well-being.

26 103. DEFENDANTS' actions were the direct and proximate cause of the  
27  
28

1 DECEDENTS 1's and 2's deaths and injuries inflicted upon PLAINTIFF as a result of the  
2 SUBJECT INCIDENT.

3 104. DEFENDANTS' failure to check DECEDENT 1 to make sure she was not a threat  
4 to cause harm to herself and to her family members, their failure to summon the mental health  
5 crisis unit and/or take DECEDENT 1 into custody to receive a 72- hour mental health treatment  
6 and evaluation resulted in DECEDENT 1's and DECEDENT 2's death and thereby causing  
7 severe emotional distress to PLAINTIFF, and/or acted in conscious disregard of the probability  
8 that PLAINTIFF would suffer severe emotional distress. DEFENDANTS' conduct was so  
9 extreme as to go beyond the bounds of decency and be regarded as intolerable in a civilized  
10 society.  
11  
12

13 105. As a direct and legal result of the wrongful conduct and/or omissions of  
14 DEFENDANTS and each of them, PLAINTIFF suffered, and continue to suffer, the injuries and  
15 damages hereinabove set forth.  
16

17 106. In doing the wrongful and intentional act as herein alleged, DEFENDANTS  
18 acted willfully, recklessly, and with oppression, fraud, malice and with a conscious disregard for  
19 the DECEDENTS' lives and for PLAINTIFF's health, safety and general welfare. Such action  
20 was done with malice, oppression, and/or fraud and was and is despicable, shocking, and  
21 offensive and entitles PLAINTIFF to an award of punitive damages against DEFENDANTS in  
22 an amount to be determined at trial.  
23

24 **PRAYER FOR RELIEF**

25 WHEREFORE, PLAINTIFF prays judgment against DEFENDANTS as follows:

- 26 a. General damages, including emotional distress, according to proof at the time  
27 of trial;  
28

- b. Special damages according to proof at the time of trial;
- c. Prejudgment interest;
- d. Punitive Damages, at the time of trial;
- e. Costs of suit incurred herein; and
- f. Attorneys' fees;
- g. Exemplary damages.

**DEMAND FOR JURY TRIAL**

Plaintiff respectfully demands that the present matter be set for a jury trial.

//

//

//

*Respectfully Submitted by:*

**THE KHASHAN LAW FIRM, APC**  
A Professional Law Corporation

Dated:

By: Lewis Khashan, Esq.  
Maria Zurmati, Esq.  
Lewis G. Khashan, Esq.  
Attorneys for Frank Lopez